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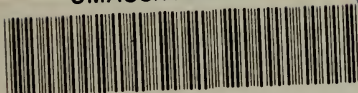
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A GUIDE TO WITHHOLDING OF TAXES ON WAGES

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**Massachusetts
Department of Revenue**



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Dear Fellow Taxpayer:

The withholding of state income taxes by employers from their employees' paychecks is the single most important revenue source for the Commonwealth. At the Department of Revenue (DOR), our goal is to help all employers meet their withholding requirements by explaining the rules for collecting and remitting employee withholding in the clearest way possible.

Withholding is one of several "trustee taxes" collected by the Department. Trustee taxes — withholding as well as sales/use tax, meals tax and room occupancy excise — are so-named because employees and customers are entrusting businesses to remit the taxes they collect to the Commonwealth. The fact that trustee taxes account for well over half of total state tax collections each year underscores the importance of remitting these taxes to DOR on time and in full.

To ensure that Massachusetts taxpayers understand and fulfill their responsibilities, the Department is committed to providing taxpayers with prompt customer service, user-friendly tax forms and informational tax guides like this one. At the same time, our ongoing enforcement efforts are designed to protect honest taxpayers from those who might try to avoid their obligations.

Whether you are starting a new business or are a veteran business owner, we hope this guide is helpful in providing you with an understanding of your withholding responsibilities. As always, you are invited to contact the Department directly if you have additional questions.



Mitchell Adams
Commissioner of Revenue

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Introduction

This publication contains general information regarding withholding of Massachusetts income tax from wages. It is designed to inform you, as an employer, of the basics of collecting and remitting employee withholding to the Massachusetts Department of Revenue (DOR).

Written in a straightforward question and answer format, this guide defines basic withholding terminology, outlines an employer's responsibilities, and explains the methods of calculating the proper amount of withholding.

Please note that Massachusetts uses federal legal definitions for many basic withholding concepts such as "employer" and "employee." The descriptions of basic terms provided here are not comprehensive. Any complex definitional questions must be resolved in accordance with federal rules.

This guide is part of an on-going series of publications designed to keep the public informed about Massachusetts tax law. If you have further questions about withholding of income tax, please call the Department's Taxpayer Assistance Bureau (TPA) at (617) 727-4545 or toll-free in Massachusetts at 1-800-392-6089. You can also visit any DOR office location listed on the back of this brochure.

Basic Definitions and Employer Responsibilities

What is withholding?

Withholding refers to income tax withheld from wages by employers to pay employees' annual income taxes. As an employer, you are required by law to withhold Massachusetts personal income tax from wages of residents for services performed either within or outside Massachusetts, and from wages of nonresidents for services performed in Massachusetts.

Who is an employer?

An employer is any person, corporation, or organization for whom an individual performs a service as an employee. An employer may be an individual, corporation, partnership, estate, trust, association, joint venture, or other unincorporated organization. Religious, educational, charitable and social organizations may also be employers. These organizations are responsible for collecting and remitting employee withholding to the Commonwealth.

Who is an employee?

An employee is anyone who performs services for another person or organization under the direction and control of that person or organization. The relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the details and manner in which the job is to be accomplished.

Is the owner of a business considered an employee?

As a general rule, the owner of a sole proprietorship is not considered an employee for withholding purposes even if he or she has no other employees. Therefore, the owner would not register for withholding solely to pay his or her own taxes. However, if an owner expects to owe more than \$200 in Massachusetts income tax on the income received from the business, he or she is required to make individual estimated income tax payments.

For more information on individual estimated income tax payments, refer to Form 1-ES Instructions. DOR also has a brochure entitled, "Should I Be Paying Estimated Taxes?" which is available by calling DOR's Taxpayer Assistance Bureau (TPA) at (617) 727-4392.

What are the responsibilities of an employer?

An employer is responsible for:

- *registering with DOR to collect withholding taxes;*
- *withholding state income taxes from employees who reside or are employed in Massachusetts and remitting those taxes on the appropriate form on time (please refer to the section entitled, "How to Calculate Withholding from Wages");*
- *obtaining from each employee a completed Form W-4, Employee Withholding Exemption Certificate, and Form M-4, Mass. Employee Withholding Exemption Certificate;*
- *providing each employee with a Form W-2, Wage and Tax Statement, by January 31, showing the total amount of wages paid and the amount of Massachusetts income tax withheld for the prior year. Copies of each employee's Form W-2 must also be submitted to the Massachusetts Department of Revenue with a Form M-3 or Form M-3M, Reconciliation of Massachusetts Income Taxes Withheld;*
- *filing quarterly reports of gross wages paid to each employee who resides or is employed in Massachusetts. This is done on Form WR-1, Employer's Quarterly Report of Wages Paid;*
- *contacting the Department of Employment and Training to fulfill the employer's obligations for state employment security taxes. The telephone number for unemployment insurance information is (617) 727-6560; and*
- *contacting the Internal Revenue Service (IRS) to fulfill his or her obligations for withholding federal income taxes. For more information, call the IRS at (617) 523-1040.*

How does an employer register to collect withholding?

To register to collect Massachusetts withholding, an employer must file Form TA-1, Application for Original Registration.

The TA-1 booklet contains filing schedules, instructions for completing the form, and other important information. The booklet is available at any DOR office location listed on the back of this brochure.

What happens after registering with DOR?

Once DOR has processed your Form TA-1, we will send a booklet of preprinted tax returns to your principal place of business within two to three weeks. If your business size requires you to file annually, you will not receive your form until December of the year for which you are filing.

Must a tax-exempt organization collect withholding?

Yes. Tax-exempt organizations such as religious and governmental organizations are required to withhold income tax from employees.

Is a Massachusetts employer required to withhold state income tax from an employee who is a nonresident?

Yes. Withholding is required on wages paid to nonresidents that are attributable to services performed in Massachusetts. However, if a nonresident does not work in Massachusetts, even if he or she is paid from a Massachusetts office, withholding is not required.

Example:

Michael is single, lives in Nashua, New Hampshire and works in Massachusetts. Michael's Massachusetts employer withholds the appropriate amount of Massachusetts income tax from his weekly paycheck and remits it in full to the Massachusetts Department of Revenue. Michael files a nonresident annual income tax return in Massachusetts.

Is a non-Massachusetts employer required to withhold state income tax from wages for a Massachusetts resident?

Yes. A non-Massachusetts employer must deduct and withhold from wages the amount determined for Massachusetts income tax purposes, less any amount deducted and withheld for the employer's state. If there is no state withholding in the home state of the business, the employer withholds and remits the full amount determined for Massachusetts.

Example: Susan is single, lives in Medfield, Massachusetts and works in Rhode Island. In 1992, she earns \$425 a week. Her employer withholds \$14.58 from her paycheck each week for Rhode Island income tax. Since Susan would have had \$20.84 withheld from her weekly paycheck had she worked in Massachusetts, her employer withholds and remits an additional \$6.26 to DOR.

Must an employer withhold on wages for Massachusetts if federal withholding is not required?

No. DOR follows the IRS guidelines for persons subject to withholding. If no requirement to withhold federal income tax exists, no such responsibility will exist in Massachusetts.

Information Employers Must Obtain from Employees

What information does an employer need to obtain from an employee for withholding purposes?

An employer needs to know the employee's home address and the total number of personal exemptions to which the employee is entitled. Employees must report this information on Forms W-4 and M-4. Claiming the proper number of exemptions prevents overwithholding.

Should employees complete both Forms W-4 and M-4?

Yes. Since Massachusetts personal exemptions are different from U.S. personal exemptions, DOR recommends that employees complete both Form M-4, Massachusetts Employee Withholding Exemption Certificate, and U.S. Form W-4, Employee Withholding Exemption Certificate, for the most accurate withholding.

Can an employee change the number of his or her exemptions on Form M-4?

Yes. An employee may file a new certificate at any time if the number of exemptions increases. An employee **must** file a new certificate within 10 days if the number of exemptions previously claimed decreases.

How does an employee with two or more jobs calculate exemptions on Form M-4?

If an employee has more than one job, he or she may claim exemptions **only** with his or her principal employer.

Can employees ask employers to withhold extra amounts of tax?

Yes. Employees who receive income that is not covered by withholding may request that their employer withhold additional amounts to pay the tax that will be due on that income.

Should an employer withhold on income from tips?

Yes. In accordance with federal tax rules, tips are considered part of an employee's pay and must be taken into account when determining the withholding amount. Employees must report tips totalling \$20 or more in any given month to employers by the 10th day of the following month. The employer uses this reported amount to calculate withholding by adding the reported tips to the employee's pay.

How to Calculate Withholding from Wages

What are taxable wages?

Taxable wages include all remuneration to an employee for services performed. Payments subject to Massachusetts withholding include wages, salaries, tips, commissions, bonuses, fees, or any other item of value paid to an individual for services as an employee.

Payments to employees specifically for traveling or other reimbursed business expenses are not subject to withholding. These payments must be identified either by making a separate payment or by indicating the separate amounts if both wages and expense allowances are combined in a single payment.

How is withholding calculated?

The amount of income tax withheld is based on the employee's taxable wages and the number of exemptions claimed on the Employee's Withholding Exemption Certificate, Form M-4. Withholding is calculated by either using the tax tables available from DOR or a mathematical formula commonly known as the percentage method. These methods may be applied on a daily, weekly, biweekly, semimonthly or monthly basis.

How do the withholding tables work?

The withholding tables provided in DOR's Circular M factor in the employee's wages for an applicable payroll period and the number of withholding exemptions claimed by the employee on Form M-4. An additional reduction of the withholding amount occurs if either the taxpayer or the taxpayer's spouse is blind. The withholding table amount should be reduced as follows if the blindness exemption is claimed:

Table	Reduction Amount*
Daily.....	\$ 0.36
Weekly.....	2.52
Biweekly.....	5.03
Semimonthly.....	5.45
Monthly.....	10.91

*Based on 5.95% tax rate.

Note: These amounts should be doubled if the taxpayer's spouse is blind and not otherwise subject to withholding.

Example: Steve earns \$565 a week as a construction worker. His wife Debby works full-time in real estate. They have three children, ages 14, 11 and 8. Steve and Debby decided to claim the exemptions for their children on Steve's M-4. Below is a copy of Steve's Form M-4. He is allowed a total of five exemptions; one for himself, three for his children, plus an additional exemption for having at least one child under age 12.

FORM M-4 MASSACHUSETTS EMPLOYEE'S WITHHOLDING EXEMPTION CERTIFICATE

Print full name Steven Taxpayer Social Security No. 123-45-6789

Print home address 66 Main St. City Anytown State MA Zip Code 01234

EMPLOYEE: Fill this form or Form W-4 with your employer. Otherwise, Massachusetts Income Taxes will be withheld from your wages without exemptions.

EMPLOYER: Keep this certificate with your records. If the employee is believed to have claimed excessive exemptions, the Massachusetts Department of Revenue should be so advised.

HOW TO CLAIM YOUR WITHHOLDING EXEMPTIONS

- 1 Your personal exemption Write the figure "1" If you are age 65 or over or will be before next year, write "2"
- 2 IF MARRIED and if exemption for spouse is allowed, write the figure "2" If your spouse is age 65 or over or will be before next year and if otherwise qualified, write "3" See Instruction C
- 3 Write the number of your qualified dependents See Instruction D
- 4 Add the number of exemptions which you have claimed above and write the total
- 5 Additional withholding per pay period under agreement with employer \$ 0

A ☐ Check if you are blind. B ☐ Check if spouse is blind and not subject to withholding

C ☐ Check if you are a full-time student engaged in seasonal, part-time or temporary employment whose estimated annual income will not exceed \$8,000

EMPLOYER: DO NOT withhold if full-time student Box C is checked.

I certify that the number of withholding exemptions claimed on this certificate does not exceed the number to which I am entitled

(Date) April 5, 19 92 (Signed) Steven Taxpayer

THIS FORM MAY BE REPRODUCED

Steve's employer uses this information to calculate the correct amount to withhold from his weekly paycheck. Using the weekly table in the Circular M, his employer withholds \$24.23 from Steve's weekly paycheck.

If the payroll period with respect to an employee is WEEKLY

And the wages are		And the number of withholding exemptions claimed is										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10
The amount of Massachusetts income tax to be withheld shall be												
510	520	28.35	25.84	24.69	23.55	22.40	21.26	20.12	18.97	17.83	16.68	15.54
520	530	28.95	26.43	25.29	24.14	23.00	21.85	20.71	19.57	18.42	17.28	16.13
530	540	29.54	27.03	25.88	24.74	23.59	22.45	21.31	20.16	19.02	17.87	16.73
540	550	30.14	27.62	26.48	25.33	24.19	23.04	21.90	20.76	19.61	18.47	17.32
550	560	30.73	28.22	27.07	25.93	24.78	23.64	22.50	21.35	20.21	19.06	17.92
560	570	31.33	28.81	27.67	26.52	25.38	24.23	23.09	21.95	20.80	19.66	18.51
570	580	31.92	29.41	28.26	27.12	25.97	24.83	23.69	22.54	21.40	20.25	19.11
580	590	32.52	30.00	28.86	27.71	26.57	25.42	24.28	23.14	21.99	20.85	19.70
590	600	33.11	30.60	29.45	28.31	27.16	26.02	24.88	23.73	22.59	21.44	20.30
600	610	33.71	31.19	30.05	28.90	27.76	26.61	25.47	24.33	23.18	22.04	20.89

What is the percentage method?

The percentage method is a mathematical formula for determining withholding amounts. This method is used primarily by businesses with automated payroll systems. The percentage method is calculated as follows:

1. Determine employee's wages for the payroll period (weekly, biweekly, etc.).
2. Subtract the amount deducted for FICA, Mass. or U.S. railroad retirement contributions (up to an annual maximum of \$2,000).
3. Subtract the exemption factor (from chart below).
4. Multiply the result by the current rate.

Note: The tax rate for 1992 and thereafter until further notice is 5.95%.

The exemption factor is based on the number of withholding exemptions claimed and the applicable payroll periods. The following table details the exemption factor calculation:

Payroll Period	Exemption Factor Calculation
Daily	\$3.00 x number of exemptions claimed + \$ 3
Weekly	\$19.50 x number of exemptions claimed + \$ 23
Biweekly	\$39.00 x number of exemptions claimed + \$ 46
Semimonthly	\$42.00 x number of exemptions claimed + \$ 50
Monthly	\$83.00 x number of exemptions claimed + \$ 100
Annually	\$1,000.00 x number of exemptions claimed + \$1,200

An additional reduction of the withholding amount occurs if either the taxpayer or the taxpayer's spouse is blind. When using the percentage method to calculate withholding, the taxpayer may increase the exemption factor based on the following payroll period schedule:

Payroll Period	Increase in Exemption Factor
Daily	\$6.00
Weekly	42.50
Biweekly	85.00
Semimonthly	92.00
Monthly	183.00
Annually	\$2,200.00

Example: Nancy works as a paralegal and earns \$350 a week. She claims four exemptions; one for herself, two for her children ages three and six, and one more for having at least one dependent under age twelve. Nancy's state withholding, using the percentage method, is based on the following calculation:

Wages	\$350.00
FICA	(26.77)
Subtotal	\$323.23
Exemption factor (19.50 x 4) + 23.00	(101.00)
Subtotal	\$222.23
Tax rate	x .0595
Withholding	\$ 13.22

Withholding Filing and Payment Schedule

What Is the schedule for filing and paying withholding?

Different schedules must be followed for filing forms and paying withholding depending on the total amount of tax you expect to withhold from your employees in a year. The following chart lists the schedules for filing forms and paying withholding.

Annual Withholding Tax Collected from All Employees	Return Filing Requirement	Payment Due
<i>\$100 or less</i>	<i>Annually due by Jan. 31 of the following year. Form M-941A.</i>	<i>Payment due with return.</i>
<i>\$101 up to \$1,200</i>	<i>Quarterly due on or before last day of month following close of calendar quarter. Form M-941.</i>	<i>Payment due with return.</i>
<i>\$1,201 up to \$25,000</i>	<i>Monthly due on or before 15th day of following month except for the payments for March, June, September and December—these are due on the last day of the following month. Form M-942.</i>	<i>Payment due with return.</i>
<i>More than \$25,000</i>	<i>Quarterly due on or before last day of month following the close of the calendar quarter — i.e., on or before April 30, July 31, October 31 and January 31. Form M-941D.</i>	<i>Weekly payments on Form M-941W due on or before the third business day following the 7th, 15th, 22nd, and last day of the month if you make payments four times per month or 48 times per year.*</i>

**If, however, you choose to make 52 payments per year, payments should be submitted according to your weekly payroll schedule.*

Example: Over the year, AMC Productions expects to withhold a total of \$14,000 from its 12 employees for Massachusetts income tax. Because AMC Productions withholds more than \$1,201 but less than \$25,000 annually, they are required to file a Form M-942, Employer's Monthly Return of Income Taxes Withheld.

What are the penalties for late returns?

Withholding tax returns that are not filed on or before the due date are subject to interest and penalty charges.

The penalty for late payment is $\frac{1}{2}\%$ of the balance due, per month (or fraction thereof), up to a maximum of 25%.

The penalty for failure to file a return by the due date is 1% of the balance due, per month (or fraction thereof), up to a maximum of 25%.

If you fail to pay the tax when due, interest will also be charged at a rate of 18% per year.

Are there any other penalties?

Yes. Businesses with annual withholding liabilities in excess of \$25,000 who fail to make timely deposits of withholding tax are liable for a 5% penalty on the amount of underpayment.

The amount of underpayment is any portion of a tax payment or deposit which was due on a weekly basis, but not paid on time.

Willful tax evasion *is a felony punishable by a fine of up to \$100,000 for individuals or \$500,000 for corporations and/or imprisonment of up to five years. Willful failure to collect and pay over taxes is also a felony and is punishable by a fine of up to \$10,000 and/or imprisonment of up to five years.*

Should a form be filed even if no tax was due for a given period?

Yes. A form should be filed for all periods even when no tax is due — just enter zero in the appropriate places. This is necessary for our record keeping purposes. It will also help avoid requests from DOR for filing information.

How can withholding payment errors be corrected?

If you make a withholding payment error, corrections must be made as follows:

- Adjustment for an underpayment of withheld taxes for the immediate prior period within the same calendar year must be made in Item 2 of the employer's appropriate form — either Form M-941D, M-941 or M-942 for such period.*
- Underpayments occurring before the immediate prior calendar period must be adjusted on an amended Form M-941 or Form M-942.*
- Refunds of overpayments of taxes withheld must be requested on Form CA-6, Application for Abatement. Refunds of overpayments shown on annual reconciliation statements must also be requested on Form CA-6.*

Reporting and Retaining Employee Wage and Withholding Information

How must employers submit W-2 forms to DOR?

Employers must submit a copy of each employee's Form W-2 with an annual reconciliation statement, Form M-3 or Form M-3M. These documents must be filed with the Department of Revenue by the last day of February for the preceding year. Employers are encouraged to submit these documents on magnetic tape. As a general rule, DOR accepts the format used by the IRS for reporting information on magnetic tape. For more information, contact DOR's Federal/State Exchange Office at (617) 727-8577.

An employer who either fails to provide an employee with a Form W-2 or issues a false Form W-2 may be fined up to \$1,000 and/or imprisoned for up to one year.

Which withholding records should be retained?

Records retained should include:

- the name, address, occupation and social security number of each employee;*
- the amount and date of all payments of wages, the period of services covered by such payments, and the amounts of tax withheld;*
- employees' statements of tips received;*
- employees' withholding exemption certificates (Forms M-4 and W-4);*
- employer's copies of employees' wage and tax statements (Form W-2); and*
- copies of all withholding returns filed with the Department.*

How long should withholding records be kept?

It is the employer's responsibility to retain all records pertaining to withholding for at least three years after the date the return was filed or the date it was required to be filed, whichever is later.

You should also know that there is no limitation on the period for which DOR may request records if an employer failed to file a return or filed a false or fraudulent return. Further information about retaining records is available in Regulation 830 CMR 62C.25.1. To obtain a copy, please call DOR's Rulings and Regulations Bureau at (617) 727-8240.

Are employers required to file any other wage-related information with DOR?

Yes. By law, employers registered with DOR must complete and submit Massachusetts wage reporting information on Form WR-1, Employer's Quarterly Report of Wages Paid. DOR will send you the form on a quarterly basis. The purpose of the wage reporting system is to verify eligibility for programs such as unemployment insurance benefits, veterans' service benefits and others. Requirements under this system are separate from requirements to submit income tax withholding forms.

An employer who fails to comply with the wage reporting requirements may be liable for penalties of up to \$100 per employee.

Can employers file wage reporting information on magnetic tape?

Employers who report 250 or more employees in a calendar quarter and who have data processing capabilities or access to them, are required to report quarterly wage information to the Department on magnetic tape. Smaller organizations may also find it easier to file on magnetic tape, although it is not required. To make it as easy as possible for employers to meet this new requirement, DOR has adopted a modified version of the tape format used by employers to report information to the Social Security Administration. Form WR-1, instructions explain magnetic tape reporting rules in more detail.

***Where can employers
get more information
about wage reporting?***

For more information or to request a Form WR-1, employers may contact DOR's Wage Reporting Control Unit at (617) 621-5040.

***What is the schedule
for filing wage reports?***

*The wage report, Form WR-1, is due on or before the last day of the month following the end of **each** calendar quarter. Quarterly wage reports are due on the following dates:*

<i>Quarter Ending</i>	<i>Due Date</i>
<i>March 31.....</i>	<i>April 30</i>
<i>June 30.....</i>	<i>July 31</i>
<i>September 30.....</i>	<i>October 31</i>
<i>December 31.....</i>	<i>January 31</i>

Where to Get Help and Forms

Where can employers get withholding information and forms?

For further information on Massachusetts withholding tax law or to receive withholding forms, please contact:

*Massachusetts Department of Revenue
Taxpayer Assistance—Withholding Section
100 Cambridge Street
Boston, MA 02204
(617) 727-4545*

The following is a list of the various forms and schedules that pertain to withholding.

Form No.	Description
M-3	<i>Reconciliation of Massachusetts Income Taxes Withheld for Quarterly Filers.</i>
M-3M	<i>Reconciliation of Massachusetts Income Taxes Withheld for Monthly Filers.</i>
M-3P	<i>Reconciliation of Massachusetts Income Taxes Withheld from Pension, Annuity and Other Periodic Payments and Nonperiodic Payments.</i>
M-4	<i>Massachusetts Employee's Withholding Exemption Certificate.</i>
M-4P	<i>Massachusetts Withholding Exemption Certificate for Pension, Annuity and Other Periodic Payment and Nonperiodic Payments.</i>
M-941	<i>Quarterly Return of Income Taxes Withheld.</i>
M-941A	<i>Annual Return of Income Taxes Withheld.</i>
M-941D	<i>Quarterly Return of Income Taxes Withheld for Employer Paying Weekly.</i>
M-941W	<i>Employer's Weekly Payment of Income Taxes Withheld.</i>
M-942	<i>Employer's Monthly Return of Income Taxes Withheld.</i>
WR-1	<i>Employer's Quarterly Report of Wages Paid.</i>
CA-6	<i>Application for Abatement.</i>
TA-1	<i>Application for Original Registration.</i>
M-2848	<i>Power of Attorney.</i>

The purpose of this publication is to provide taxpayers with general information about Massachusetts tax laws and Department of Revenue policies and procedures as of January 1, 1992. It is not designed to address all questions in detail, and taxpayers are encouraged to seek further guidance as described throughout this guide. Nothing contained within this publication supercedes, alters or otherwise changes any provisions of Massachusetts General Laws, Massachusetts Department of Revenue Regulations or Rulings or any other sources of the law.



Department of Revenue Offices:
Toll-free in Massachusetts
1-800-392-6089

(617) 727-4545

Boston Headquarters

100 Cambridge Street, MA 02204

(508) 586-4875

Brockton

144 Main Street, MA 02401

(508) 678-2844

Fall River

218 S. Main Street, MA 02721

(508) 345-0381

Fitchburg

9 Prichard Street, MA 01420

(413) 774-2740

Greenfield

Heritage Bank Building
11 Davis Street, MA 01301

(508) 771-2414

Hyannis

397 Main Street, MA 02601

(508) 458-8426

Lowell

100 Merrimack Street, MA 01852

(413) 499-2206

Pittsfield

333 East Street, MA 01201

(413) 784-1000

Springfield

436 Dwight Street, MA 01103

(617) 246-0124

Wakefield

27 Water Street, MA 01880

(508) 792-7300

Worcester

75A Grove Street, MA 01605

Taxpayers can contact the IRS at 1-800-829-1040 for federal tax information.
